

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 772 - L.D. 1044

An Act To Protect the Rights of Certain Incarcerated Individuals

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 34-A MRSA §1208-B, sub-§2, as enacted by PL 2015, c. 335, §22, is amended to read:

2. Rulemaking. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. ~~Rules adopted pursuant to this section must take effect January 1, 2016.~~

Sec. 2. 34-A MRSA §1208-B, sub-§3 is enacted to read:

3. Gender affirmation. The standards, policies and procedures established pursuant to this section for the county jails and regional jail must require the jails to respect and acknowledge an incarcerated person's consistently held gender identity irrespective of anatomy or physique. Housing placements and search practices must be consistent with the person's consistently held gender identity except when such placement or search would present significant management or security problems to the jail or threaten the health and safety of the person. A person must have access to commissary items, clothing, personal property, programming and educational materials that are consistent with the person's consistently held gender identity. County and regional jail staff shall address a person in a manner that is consistent with the person's consistently held gender identity.

Sec. 3. 34-A MRSA §3031, sub-§8, as amended by PL 2019, c. 139, §2, is further amended to read:

8. Visitation. A reasonable opportunity to visit with relatives and friends, in accordance with departmental policies and institutional procedures, ~~provided except~~ that the department may restrict or prohibit visits when the restriction or prohibition is necessary for the security of the institution; ~~and~~

Sec. 4. 34-A MRSA §3031, sub-§9, as enacted by PL 2019, c. 139, §3, is amended to read:

9. Menstrual products. Comprehensive access to menstrual products, including, but not limited to, sanitary pads and tampons, provided and available at all times and without

inconvenience or charge to a person who menstruates who resides in a correctional or detention facility; and

Sec. 5. 34-A MRSA §3031, sub-§10 is enacted to read:

10. Gender affirmation. Have the person's consistently held gender identity respected and acknowledged, irrespective of anatomy or physique. Housing placements and search practices must be consistent with the person's consistently held gender identity except when such placement or search would present significant management or security problems to the correctional or detention facility or threaten the health and safety of the person. A person must have access to commissary items, clothing, personal property, programming and educational materials that are consistent with the person's consistently held gender identity. Correctional or detention facility staff shall address a person in a manner that is consistent with the person's consistently held gender identity.